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9 Attorneys for Complainant

10 **BEFORE THE**
11 **RESPIRATORY CARE BOARD**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. R-2065

14 MILVIN T. TORREVILLAS
707 South Webster Avenue, Apt. #114
15 Anaheim, CA 92804

A C C U S A T I O N

16 Respiratory Care Practitioner
License No. 18632

17 Respondent.
18

19 Complainant alleges:

20 **PARTIES**

21 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
22 official capacity as the Executive Officer of the Respiratory Care Board of California,
23 Department of Consumer Affairs.

24 2. On or about April 18, 1996, the Respiratory Care Board issued Respiratory
25 Care Practitioner License No. 18632 to MILVIN T. TORREVILLAS (Respondent). The
26 Respiratory Care Practitioner License was in full force and effect at all times relevant to the
27 charges brought herein and will expire on August 31, 2007, unless renewed.

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1 licensed physician and surgeon, dentist, or podiatrist administered to himself or
2 herself, or furnished or administered to another, any controlled substances as
3 defined in Division 10 (commencing with Section 11000) of the Health and Safety
4 Code, or any dangerous drug as defined in Article 2 (commencing with section
5 4015) of Chapter 9.

6 “(b) Used any controlled substance as defined in Division 10
7 (commencing with Section 11000) of the Health and Safety Code, or any
8 dangerous drug as defined in Article 2 (commencing with section 4015) of
9 Chapter 9.

10 “(d) Been convicted of a criminal offense involving the consumption or
11 self-administration of any of the substances described in subdivisions (a) and (b),
12 or the possession of, or falsification of a record pertaining to, the substances
13 described in subdivision (a), in which event the record of the conviction is
14 conclusive evidence thereof.

15 “. . .”

16 8. Section 3752 of the Code states:

17 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
18 made to a charge of any offense which substantially relates to the qualifications, functions, or
19 duties of a respiratory care practitioner is deemed to be a conviction within the meaning of this
20 article. The board shall order the license suspended or revoked, or may decline to issue a license,
21 when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
22 or when an order granting probation is made suspending the imposition of sentence, irrespective
23 of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw
24 his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
25 dismissing the accusation, information, or indictment.”

26 9. California Code of Regulations (CCR), title 16, section 1399.370, states,
27 in pertinent part:

28 “For the purposes of denial, suspension, or revocation of a license, a crime or act

1 shall be considered to be substantially related to the qualifications, functions or duties of a
2 respiratory care practitioner, if it evidences present or potential unfitness of a licensee to perform
3 the functions authorized by his or her license or in a manner inconsistent with the public health,
4 safety, or welfare. Such crimes or acts shall include but not be limited to those involving the
5 following:

6 “(a) Violating or attempting to violate, directly or indirectly, or assisting or
7 abetting the violation of or conspiring to violate any provision or term of the Act.

8 “...”

9 10. Section 492 of the Code states:

10 “Notwithstanding any other provision of law, successful completion of any
11 diversion program under the Penal Code, or successful completion of an alcohol and drug
12 problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12
13 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
14 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in
15 that division, from taking disciplinary action against a licensee or from denying a license for
16 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
17 record pertaining to an arrest.

18 “‘This section shall not be construed to apply to any drug diversion program
19 operated by any agency established under Division 2 (commencing with Section 500) of this
20 code, or any initiative act referred to in that division.”

21 COST RECOVERY

22 11. Section 3753.5, subdivision (a) of the Code states, in pertinent part:

23 "‘In any order issued in resolution of a disciplinary proceeding before the board,
24 the board or the administrative law judge may direct any practitioner or applicant found to have
25 committed a violation or violations of law to pay to the board a sum not to exceed the costs of the
26 investigation and prosecution of the case."

27 12. Section 3753.7 of the Code states:

28 "‘For purposes of the Respiratory Care Practice Act, costs of prosecution shall

1 include attorney general or other prosecuting attorney fees, expert witness fees, and other
2 administrative, filing, and service fees."

3 13. Section 3753.1 of the Code states, in pertinent part:

4 "(a) An administrative disciplinary decision imposing terms of probation
5 may include, among other things, a requirement that the licensee-probationer pay
6 the monetary costs associated with monitoring the probation. "

7 FIRST CAUSE FOR DISCIPLINE

8 (Conviction of a Crime)

9 14. Respondent is subject to disciplinary action under sections 3750,
10 subdivisions (d) and (g), 3750.5, subdivision (d), and 3752, of the Code; and CCR, title 16,
11 section 1399.370, subdivision (a), in that Respondent was convicted of a crime substantially
12 related to the qualifications, functions, or duties of a respiratory care practitioner. The
13 circumstances are as follows:

14 A. On or about November 4, 2005, while driving his vehicle,
15 Respondent was pulled over by the Downey Police for a vehicle violation. Officer
16 J.P. asked Respondent if he was on probation or parole, and Respondent stated he
17 thought he was on parole for carrying a firearm. Upon a search of Respondent,
18 Officer J.P. found a baggie containing nine empty clear baggies and one clear
19 baggie containing a crystal-like substance resembling methamphetamine.
20 Respondent was subsequently arrested. Respondent admitted to Officer J.P. that
21 the baggie contained crystal (methamphetamine) and that he uses
22 methamphetamine. A color screening test conducted by the police officer
23 confirmed that the crystal-like substance contained amphetamine¹.

24 B. On or about February 7, 2006, a complaint was filed in
25 Superior Court of the State of California, County of Los Angeles, entitled *The*
26

27 1. A central nervous system stimulant. Methamphetamine is the crystalline form of
28 amphetamine.

1 *People of the State of California v. Milvin Tidalgo Torrevillas*, Case No.
2 VA093667, charging Respondent with violating Health and Safety Code section
3 11377(a), a felony [possession of a controlled substance, to wit:
4 methamphetamine].

5 C. On or about April 17, 2006, Respondent pled guilty to
6 violating Health and Safety Code section 11377(a) and was granted a deferred
7 entry of judgment for 24 months.

8 D. On or about January 25, 2007, Respondent failed to appear
9 in court as required. For his failure to appear, the deferred entry of judgment was
10 terminated and the criminal proceedings reinstated. Respondent was convicted of
11 violating Health and Safety Code section 11377(a), and a bench warrant was
12 issued in the amount of \$50,000.00.

13 SECOND CAUSE FOR DISCIPLINE

14 (Conviction of a Crime Involving Possession of a Controlled Substance)

15 (Possession of a Controlled Substance)

16 15. Respondent has further subjected his Respiratory Care Practitioner
17 License No. 18632 to disciplinary action under sections 3750, subdivision (g), 3750.5,
18 subdivisions (a), as defined by section 3750.5, subdivision (d) of the Code; and CCR, title 16,
19 section 1399.370(a), in that he was in possession of a controlled substance, to wit:
20 methamphetamine, and was convicted of that crime, as more particularly described in paragraph
21 15, above, which is incorporated by reference as if fully set forth herein.

22 THIRD CAUSE FOR DISCIPLINE

23 (Use of a Controlled Substance)

24 16. Respondent has further subjected his Respiratory Care Practitioner
25 License No. 18632 to disciplinary action under sections 3750.5, subdivision (b) and CCR, title 16
26 section 1399.370(a), in that he admitted to using a controlled substance, to wit:
27 methamphetamine, as more particularly described in paragraph 15, above, which is incorporated
28 by reference as if fully set forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

1. Revoking Respiratory Care Practitioner License No. 18632 heretofore issued by the Board to MILVIN T. TORREVILLAS;
2. Ordering MILVIN T. TORREVILLAS to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring;
3. Taking such other and further action as deemed necessary and proper.

DATED: March 28, 2007

Original signed by Liane Zimmerman for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant